

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **VICE CHAIRMAN JOHN C. BOHLINGER**, on January 8, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Don Hargrove, Chairman (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 8, SB 37, SB 61, 1/5/2001
Executive Action:

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HEARING ON SB 8

EXHIBIT(sts05a01)

Sponsor: SEN. MIGNON WATERMAN, SD 26, HELENA

Proponents: Andy Poole, Department of Commerce

Opponents: None

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, Helena, introduced SB 8. This bill arose out of a situation over a bill that she carried last session for the Jobs and Income Committee. It was a fairly simple piece of legislation that allowed a tax credit for telecommunication companies that expanded into areas where they might not otherwise expand. They needed to work with local governments and communities to develop what the need was, put the proposal together, apply for the tax credit, and get it granted because there was a cap on the amount of money available so they needed to go through a selection process. Then it was a matter of implementing the work because the work had to be done before they got the tax credit. That meant that you probably had about a year of work to do before you actually started construction and got the tax credit. The process would have moved along much faster had they been able to establish the rules beforehand. It was thought that was the way the bill was drafted, but it turned out they'd done a delayed implementation partly because of budget considerations. Because we knew it was going to be a while before the tax credit took place, we didn't authorize the implementation of the tax credit itself until the second year of the biennium. It turned out that the department was told they couldn't establish rules until the second year of the biennium, so a year was lost of getting this program running and having the telecommunications companies put proposals together with communities because they didn't know what the rules were going to be. **SEN. WATERMAN** was told by legislative staff that this was not the only situation in which this occurred, because statutes now say that you cannot adopt the rules until the legislation takes effect. Senate Bill 8 would allow the departments to establish rules and go through the rule-making process, but they could not implement the rules until the legislation took effect.

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Proponents' Testimony:

Andy Poole, Deputy Director of the Department of Commerce stated that they are the agency that is responsible for implementing the advanced telecommunications infrastructure act. The agency was delayed from implementing that act until two and a half months after the effective date of the act. **Mr. Poole** thought that this is a good bill in that it allows the agencies to actually start the rule-making process before the effective date of an act so that when you adopt legislation and you think that the act is

effective on a certain date, the act and the rules are authorizing rules in fact effective on the same date. The director stated this bill is a simple bill, but a very good government bill. It is something that allows the state agencies to move forward and process with what they have to do in a timely manner.

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Opponents: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

Sen. Waterman closed on SB8.

HEARING ON SB 37

Sponsor:

SEN. DALE MAHLUM, SD 35, Missoula, referred to SB37 as his "bus driver bill". The reason he calls it his "bus driver bill" is because an acquaintance of his called to say he had a problem and upon investigation, he found out that many people have this same problem. SB37 increases the number of hours that a retired employee can work for a covered employer from 640 to 960 hours. This bill does not propose a change in the limit for those retirees affected by the retirement incentives limit to 599 hours. This proposal affects only the PERS. The cost is not significant. The fiscal note shows no cost to this. If they work more than 960 hours, it would be of little benefit to them as they would not get as much retirement. He then referred back to his "bus driver". This person hauls students around to games on a bus and he waits 4 hours while the kids are at the game. His 640 hours are used up soon and then they have to get a new bus driver and it upsets the flow of things. He encouraged the passage of this bill for all the "bus drivers" out there.

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Proponents:

John McEwen, Administrator for the State Personnel Division in the Department of Administration stated that the request for this bill came from two directions; from employees as well as state agencies. I refer to it as my "work-force planning commission",

he said. We are in a period of high employment and state agencies are having trouble filling positions. One source of workers are retirees. The reason we chose 960 hours is that is a pay period short of half-time. When these former employees are called back to work, they will be ineligible for most benefits. The only benefit they will be able to receive is sick leave. Sick leave can be used after 90 days. The demographics of state government are just like the nation's workforce. The baby-boom bubble is getting ready to retire. The size of our applicant pool is small. It takes longer to get positions filled and this is one means of insuring that agencies are able to provide services to Montana citizens. What we are finding is that it is difficult to replace the expertise that the retirees take with them when they leave. The reasons we are asking for this bill are: 1) the ability to maintain staffing levels while seeking permanent replacements, 2) the ability to use retirees to train replacements, and 3) the ability to use the expertise of retirees for special short-term projects where you would normally not go out and hire a permanent full-time person. Given the tight labor market, we see this as an advantage to state agencies. "I like to think of this bill as not so much of benefit to retirees in that their hours are increased, but more of a benefit to state agencies so that they can maintain their services," he said. There is an amendment that will be forwarded to you. In the current law, there are a couple categories of retirees; those retirees that work and retire and those are the ones that are limited to 640 hours; another group are those who experience a reduction in force and took an early buy-out opportunity. Another category are the people who took the early retirement with the window in 1993. The RIF employees and those who took the early retirement in 1993 are limited to less than 600 hours. There will be an amendment that would make it the same - changing the 600 hours to the 960 hours.

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Tom Schneider, Montana Public Employees Association, stated that they support this legislation. **Mr. Schneider** looked at this bill at the last session, but it was too late. It was after the bill request period and there was nothing we could do, so they brought this before the interim committee. Sen. Ekegren and Sen. Hargrove were on the committee, so the bill has actually been before a legislative sub-committee for the past two years and all the issues have been talked about and raised. They feel it does allow a few more hours out of people who spend a lot of time working for the state and the local governments. It isn't going to hurt the retirement system. They feel there is not a negative side to it.

Leo Barry, Association of Montana Retired Public Employees, commented that they reiterate and agree with Tom Schneider's testimony.

Opponents:

Mike O'Connor, Executive Director of the Public Employees Administration, EXHIBIT(sts05a02) talked about the policy issues that this bill implicates. The State Administration Interim Committee did look at this piece of legislation. He stated that PERS is both state and local government, so less than half of the membership in PERS consist of state employees; 53% of them are local government. The policy issues that the interim committee came up with is to discourage increasing the number of hours that a working retiree is allowed to work. Usually you have a retirement system used to recruit and retain people. He looks at this bill to say that perhaps we have a retention problem. You will have legislation during this session to look at retention. He explained how a retirement system works and how to keep the system healthy. When the person retires, you turn around and hire someone to replace them. We don't know what the effect of increasing the number of working hours close to half-time would have on the make-up of the system and how state and local government would react to this. We don't have this information. We are just starting to collect this information to determine what affect it would have. In regards to the amendment of the retirement group of people, the retirement group of people were paid up to three years of service to retire. The state and local government paid out \$9million to give these people that three years of service. The agreement was to give them the three years of service, but the number of working hours coming back would have to be less than 600 hours. That was an intent to make that distinction from the general working retirees that could work up to 640 hours.

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Kelly Jenkins, General Counsel for the Public Employees Retirement Board. He pointed out that there is no guarantee that the bill would not encourage employees to retire. There is no guarantee that this is going to work in the fashion that it is intended to work. John McEwen says that we have a shortage of employees; we need to be able to hire back these retirees so that we can fulfill our needs as a state agency. There is no guarantee that you're not going to exacerbate that shortage of employees because you're going to encourage people to retire if you make it easier for them to come back to employment.

EXHIBIT (2)

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Questions from Committee Members and Responses:

SEN. EVE FRANKLIN asked if **John McEwen** could speak more in depth of how this has come to pass. **EXHIBIT(sts05a03)** **Mr. McEwen** replied that he is looking ahead and that 20% of our work force has been in the retirement for more than 20 years. Because of how our retirement system works, that is a big block of people. We need a way to insure that we can continue to provide services. We at least want to be able to pull from this pool people to work on special projects and avoid the situation at some institutions where staff sometimes have to cancel vacations because they don't have people to fill in for them. This pool would be a source of workers.

SEN. EDWARD BUTCHER questioned **John McEwen** as to whether we should raise the number of years for retirement from 30 to 40 years? He replied that health insurance is a big concern.

SEN. BUTCHER asked **Kelly Jenkins** if we are encouraging people to retire? He responded that we don't have good information yet, but he feels the bill will have a negative impact.

SEN. TOOLE inquired of **Kelly Jenkins** if increasing the hours a person may work after retirement to 960 hours is introducing anything new? **Mr. Jenkins** replied that level is a concern to him. They actually have an incentive to retire. When you give that kind of incentive to people, it seems to him that you are increasing the chances of lawsuits.

SEN. ELLIOTT asked for comments on the fiscal note for this bill. The fiscal note states that there will be no impact. He then asked **Mike O'Connor** if he agreed that there will be no fiscal impact? **Mr. O'Connor** replied that there is also an age discrimination consideration. He is unsure of where the cut-off line is - is 960 hours too much? He is unsure. He said the increase could also effect the IRS requirement that the retirement plan be a "qualified" plan. He said this bill might affect that, but the IRS does not let you know ahead of time. Whatever we do, we want to make sure we maintain that qualified status. **SEN. ELLIOTT** also wanted to know if there would be a direct impact to the retirement plans? **Mr. O'Connor** stated that the plan is financially sound. **Mr. Jenkins** responded that he feels that this bill would have a financial impact on the system.

SEN. FRANKLIN asked **Mr. O'Connor** if he feels they will need to look at actuarial assessment? **Mr. O'Connor** answered that we don't have the data to answer that as of yet.

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Closing by Sponsor: Sen. Mahlum closed on SB37.

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Opening Statement by Sponsor:

Sen. ROYAL JOHNSON, SD5, Billings introduced SB61.

EXHIBIT (sts05a04) He said this bill would allow the state to adjust the volume of private activity bonds to whatever the federal limit is. He wants to change the limit currently in law, and then the state limit to whatever the federal law provides.

Proponents:

Cathy Muri, Department of Administration, stated that the Tax Reform Act of 1986 established a limit on the amount of tax exempt private activity bonds issued by the state. She also referred to Exhibit 4. The changes proposed in this bill would allow the Department of Administration to conform Montana's volume cap allocation to the amount allowed by congress. The proposed language in the bill is to have the Department of Administration set the state volume cap by administrative rule.

Bruce Brensdal, Executive Director of the Montana Board of Housing, said they issue private activity bonds to fund their single family and multi-family programs. He feels this bill is important for his department and their programs and encouraged passage of this bill.

Jim Stipcich, President of the Student Assistance Foundation of Montana, or SAF. EXHIBIT (sts05a05) The association receives no state funding; rather they raise the capital for their program through the issuance of private activity bonds. These bonds do require the allocation of line cap addressed in SB 61. Since 1983, their foundation has helped Montana citizens and students lower the cost of their secondary education. **Mr. Stipcich** said this bill will provide the flexibility to allow Montana to mirror the limitation provided for bonds in Federal law. The first increase would occur this year. He urged the passage of this bill.

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Opponents: None

Questions from Committee Members and Responses:

SEN. BUTCHER asked what the default rate has been? **Bruce Brendsal** replied that the risk has been limited. He believed it was around 3%.

SEN. BUTCHER asked whether, given the expansion of bonds available, the bond issue would significantly increase? **Jim Stipcich** said the issuance of the additional bonds isn't expected to have any impact.

Closing by Sponsor:

SEN. ROYAL JOHNSON closed on SB61.

David Niss explained the Committee Staff Services available.

EXHIBIT (sts05a06)

EXHIBIT (sts05a07) A list of recess appointments to various boards and commissions from the Office of the Governor was distributed and discussed. **SEN. JOHN BOHLINGER** assigned the committee members the appointees whom they are to contact.

ADJOURNMENT

Adjournment: 11:40 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts05aad)